

Message Text

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ACTION L-03

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UNCLAS THE HAGUE 1642

E.O. 11652: N/A

TAGS: AORG, ICJ, GW, IC, UK

SUBJECT: ICJ HEARS UK AND FRG ON ICELAND FISHERIES
DISPUTE

REF: THE HAGUE 1375

1. SUMMARY: ICJ HEARD UK AND FRG MAKE THEIR CASES
AGAINST ICELAND'S UNILATERAL EXTENSION OF EXCLUSIVE
FISHING RIGHTS AREA ON MARCH 25, 28 AND 29. VERBATUM
TEXT OF PRCEEDINGS BEING POUCHED DEPARTMENT AND (WHEN
AVAILABLE) ADDRESSEE POSTS. END SUMMARY.

2. BRITISH ATTORNEY GENERAL SAMUEL SILKEN TOLK ICJ
MARCH 25 BRITISH FISHING RIGHTS OFF ICELAND WENT BACK
FOR CENTURIES AND HE DENIED ICELAND'S RIGHT UNILATERALLY
EXTEND FISHING LIMITS FROM 12 TO 50 NAUTICAL MILES.
SILKEN OFFERED NEGOTIATE WITH ICELAND ON FISHING STOCK
CONSERVATION MEASURES WHICH HE SAID WERE OF COMMON
INTEREST NOT ONLY TO UK AND ICELAND BUT OTHER
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NATIONS AS WELL. BRITISH AG ARGUED ICELAND'S CLAIM

TO EXTEND FISHING RIGHTS WAS "WITHOUT FOUNDATION IN INTERNATIONAL LAW, AND INVALID". HE CONTENDED ICELAND ENTITLED NEITHER TO UNILATERALLY ASSERT FISHERIES RIGHTS NOR TO UNILATERALLY EXCLUDE BRITISH FISHING VESSELS FROM AREA OF THE HIGH SEAS BEYOND LIMITS AGREED TO IN EXCHANGE OF NOTES BETWEEN TWO COUNTRIES. SILKEN MAINTAINED IF ICELAND CLAIMED NEED FOR CONSERVATION OF FISH STOCKS DICTATED ITS ACTION, THIS MUST BE "PROPERLY ATTESTED BY SCIENTIFIC EVIDENCE". BRITAIN AND ICELAND WOULD THEN BE BOUND TO EXAMINE EVIDENCE TOGETHER IN GOOD FAITH EITHER BILATERALLY, MULTIABERALLY OR THROUGH NORTH-EAST ATLANTIC FISHERIES COMMISSION.

3. BRITHIS AG, WHO STRESSED CONSERVATION OF FISH STOCKS IMPERATIVE, NOTED ICELAND WOULD SOON BE ONLY IMPORTANT COD FISHERY IN NORTH ATLANTIC WHERE CATCH QUOTAS NOT IN FORCE. SILKEN RIDICULED VIEW THAT ICELAND A POOR NATION OF IMPOVERISHED FISHERMEN "CLINGING PRECARIOUSLY TO LIFE" AND CITED ITS HIGH STANDARD OF LIVING ON OECD SCALE. HE ALSO DENIED ICELAND'S ECONOMY WAS ENTIRELY DEPENDENT ON FISH. EMPHASIZING BRITISH DEPENDENCE ON FISHING, SILKEN SAID IT WOULD BE "INEQUITABLE" FOR ICELAND WITH POPULATION OF 205,000 AND WHICH FOR YEARS HAS TAKEN HALF OF CATCH TO SUDDENLY DISREGARD NEEDS OF OTHER NATIONS. AG SAID ICELAND WAS CHALLENGING ESTABLISHED LAW AND MUST PROVE THAT ITS CLAIM WAS JUSTIFIED. HE DID NOT DISPUTE CASE FOR CATCH LIMITATION BUT CLAIMED ICELAND PROCEEDING UNILATERALLY AND SEEKING A MONOPOLY. SILEKEN ALSO TOLD ICJ BRITISH TRAWLERS HAD KEPT FISHING QUOTAS WITHIN ICJ PROTECTION LIMITS OF AUGUST 1972. HE POINTED OUT BRITISH CATCH FIGURES BETWEEN 1 SEPTEMBER 1972 AND AUGUST 31, 1973 HAD BEEN 160,714 TONS WHILE SIMILAR SIX MONTH CATCH FIGURE FOR SEPTEMBER 1, 1973 TO FEBRUARY 28, 1974 WAS ONLY 60,850 TONS. COURT HAD SEVERAL QUESTIONS ON SILKEN'S PRESENTATION WHICH WERE DISCUSSED IN SECOND SITTING ON MARCH 29TH.

4. ON MARCH 28 PROFESSOR GUNTHER JANICKE OF FRANKFURT UNCLASSIFIED

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UNIVERSITY ARGUED THAT ICELAND HAD NO RIGHT CHANGE RULES OF INTERNATIONAL LAW UNILATERALLY. HE CONTENDED ANY DECISION RESTRICTING FISHING RIGHTS OFF ICELAND MUST BE SUBJECT TO CONSULTATIONS, NEGOTIATIONS AND JUDICIAL SETTLEMENT. IN HIS PRESENTATION, JANICKE DISCUSSED: A) WHETHER NEW RULE OF INTERNATIONAL LAW HAD EMERGED WHICH WOULD ALLOW STATE TO EXTEND ITS EXCLUSIVE FISHING RIGHT BEYOND 12 MILE LIMIT,

B) WHETHER SITUATION HAD ARISEN FOR ICELAND WHICH ENTITLED HER TO LARGER CATCH AND C) LEGAL CONSEQUENCES OF ICELAND'S UNILATERAL ACTION AND HER ACTIONS AGAINST GERMAN FISHING VESSELS. PROFESSOR SAID THAT UNDER PRESENT INTERNATIONAL LAW COASTAL STATE WAS ENTITLED TO EXTEND JURISDICTION ENTITLED RIGHT OF RESERVATION OF FISHING WITHIN THIS LIMIT STILL UNRESOLVED. JANICKE SAID THIS NO PROBLEM FOR FRG, HOWEVER, SINCE IT ALREADY RECOGNIZED DE FACTO ICELAND'S EXCLUSIVE FISHING RIGHTS WITHIN 12 MILE ZONE EVEN THOUGH GERMAN FISHING VESSELS HAD HABITUALLY USED THOSE WATERS. JANICKE SAID THERE WAS TENDENCY AMONG MARITIME STATES TO EXTEND THEIR LIMITS BUT IT WAS UNCERTAIN HOW THIS COULD BE RECONCILED WITH PRINCIPLE OF FREE FISHING ON THE HIGH SEAS. HE SAID DISTANT WATER FISHING WAS MOST IMPORTANT BRANCH OF GERMANY FISHING INDUSTRY AND ACCOUNTED FOR NEARLY 70 PERCENT OF TOTAL LANDINGS. JANICKE ARGUED THAT ICELAND'S 50 MILE EXCLUSIVE FISHERY ZONE WOULD EXCLUDE GERMAN FISHING VESSELS FROM ABOUT 90 PERCENT OF THEIR TRADITIONAL FISHING GROUNDS IN THE AREA.

5. ICJ PRESIDENT LACHS ANNOUNCED THAT GOVERNMENTS OF ARGENTINA, AUSTRALIA, EQUADOR, INDIA, NEW ZEALAND AND SENEGAL HAVE ALL REQUESTED ACCESS TO THE PLEADINGS IN THE FISHERIES CASE. ICJ AGREED AFTER PARTIES TO SUIT MADE NO OBJECTION. UNCORRECTED VERBATIM TRANSCRIPTS OF PLEADINGS BEING FORWARDED DEPARTMENT. OTHER ADDRESSEES WILL BE SENT CORRECTED VERBATIM RECORD AS SOON AS AVAILABLE.
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